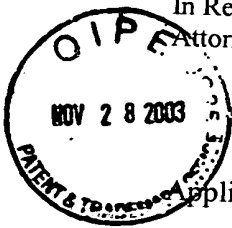


Application No. 09/555,548
Paper Dated: November 25, 2003
In Reply to USPTO Correspondence of July 25, 2003
Attorney Docket No. 702-001034



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 09/555,548
Applicant : Antonius A. A. SMITS
Filed : August 1, 2000
Title : DEVICE AND A METHOD FOR AFFIXING
OBJECTS TO PRODUCTS
Group Art Unit : 1733
Examiner : Jessica Rossi

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DEC 09 2003
TC 1700

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Sir:

Enclosed with this Response is a Petition for Extension of Time extending by one month the time in which to file this Response from October 25, 2003 until November 25, 2003.

In response to the Office Action of July 25, 2003, please consider the following comments:

| | |
|---|-----------------------------|
| I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 25, 2003. | |
| _____ Kay E. Yetter (Name of Person Mailing Paper) | |
| _____ Signature | _____ 11/25/2003 Date |

{W0093231.1}

Claims 19-21, 23-29, 31-33 and 37 remain in this application. No amendments to the currently pending claims have been made through this Response.

In Section No. 7 of the Office Action, the Examiner rejects claims 19-21, 23-29, 31-33 and 37 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirements. In particular, the Examiner indicates that claim 19 does not have support for “a stock of objects, wherein each object may have a different thickness” and refutes the support previously presented by the Applicant in the Amendment dated June 13, 2003. ~~The Examiner states that the figures in the application are only working drawings~~ which are not required to be drawn to specification and, therefore, cannot be relied upon to accurately and precisely depict every aspect of the claimed invention. While the Applicant does not refute this statement, the Applicant does not believe it is applicable to the present application. Drawings from a specification may be used in interpreting the scope of a claim. The scope and breadth of the claim can only be discerned from a careful study of the patent specification and drawings. The Applicant agrees that Figure 1 does not precisely depict every aspect of the claimed invention but submits that this figure fully supports a holder for a stock of objects, wherein each object may have a different thickness. A review of Figure 1 shows a plurality of objects 6 each clearly having a different shape and different thicknesses extending therethrough. Furthermore, lines 17-19 of the specification states that a stack of objects 6 may be, for example, a stack of bags of shampoo. It is apparent that multiple bags of shampoo would have different thicknesses depending upon the manner in which the shampoo is distributed within the bag.

The Examiner indicates that the specification does not teach objects having varying thicknesses and supports that allegation citing page 7, lines 17-20, where, as the Examiner states "Applicants teach a stock of shampoo bags 6, having the **same thickness**, being placed **alone** in the holder and then being attached to moving products using the the affixing means of the present invention. The Applicant has carefully reviewed the specification and is unable to find any teaching stating that the stock of shampoo bags 6 have the same thickness and are placed alone in the holder. Lines 17-20 on page 7 of the specification discuss an affixing means 2 which is a holder 5 in which a stack of objects 6 is present, for example, a stack of bags of shampoo. The Applicant maintains his belief that page 7, lines 17-20 and Figure 1 support that each object from a stock of the objects may have a different thickness as found in Claim 19. As a result, the Applicant does not believe that claim 19 fails to comply with the written description requirement under 35 U.S.C. § 112, first paragraph. Furthermore, by way of their dependence upon independent claim 19, the Applicant does not believe that dependent claims 20, 21, 23-29, 31-33 and 37 fail to comply with the written description requirement.

In Section No. 9 of the Office Action, the Examiner rejects claims 19, 21, 23-25 and 37 under 35 U.S.C. § 103(a) as being obvious from the teaching of United States Patent No. 4,293,365 to Geyser et al. (the Geyser patent), in view of the teaching of United States Patent No. 5,489,360 to Shimizu et al. (the Shimizu patent) or, alternatively, from the teaching of the Shimizu patent, in view of the teaching of the Geyser patent.

The Geyser patent is directed to an apparatus for applying labels, whereby a stationary holder 12 includes a plurality of labels L removed by suction cups 66, 68 attached to connector arms 40 and 42 rotating about an axis and being selectively moved by a cam 24.

The Examiner points out that this reference is silent about the affixing means being capable of being driven intermittently between rotation and standstill but that one skilled in the art reading the reference as a whole would have appreciated that the affixing means of the Geyser patent is capable of being driven intermittently between rotation and standstill, even though such is not the preferred mode of operation as the Examiner states is found in Column 4, lines 47-49 of the Geyser patent. The Applicant respectfully disagrees. There is no reason whatsoever for the apparatus disclosed in the Geyser patent to be capable of being driven intermittently between rotation and standstill. To the contrary, the apparatus disclosed in the

Geyser patent depends entirely upon continuous rotation of the connector arms 40 and 42 to ensure that the connector arms 40 and 42 are urged against and positioned by the rotating cam 24. During a standstill mode, i.e., no rotation of the connector arms 40 and 42, there is no relative motion between the connector arms 40 and 42 and the cam 24 and, as a result, every element of the apparatus is at a complete standstill and nothing will happen. Therefore, one skilled in the art would not be inclined to add intermittent motion to the apparatus disclosed in the Geyser patent.

The Examiner further indicates that the Geyser patent is silent with respect to the carrier being aligned with the object in the holder during standstill of the affixing means and the carrier being movable in the radial direction with respect to the axis of rotation for attaching the nozzle to the object and removing it from the holder during standstill. The Examiner notes that such limitations refer to the manner by which the apparatus cooperates with the material worked upon and, therefore, gets no weight. Once again, the Applicant respectfully disagrees. The wording of claim 19 indicates when the carrier is positioned in alignment with an object in the holder, the same carrier is movable in a radial direction with

respect to the axis of rotation for attaching the at least one suction nozzle to the object and for removing the object from the holder. Therefore, the affixing means during standstill is a structure that may be moved in a radial direction for attaching the at least one suction nozzle to the object. The apparatus in accordance with the Geyser patent lacks such a structure and is incapable of any motion whatsoever at standstill. The limitation to which the Examiner refers describes not only the manner by which the apparatus operates but, furthermore, describes the structure necessary for such operation and, for that reason, the Applicant believes that this language includes structural elements necessary to provide this motion.

Finally, the Geyser patent neither teaches nor suggests a device suitable for moving objects having a different thickness. In particular, Figure 5 of the Geyser patent illustrates a plurality of labels L within a stationary holder 12. The forwardmost label L must be arched and separated from the other labels by use of air from an air nozzle 93 which implies each label must behave the same in response to the jet of air. Such an air jet 93 would not be useful with objects of different thicknesses.

Nevertheless, the Examiner indicates that these missing features are taught by the Shimizu patent and, therefore, the combination of the teaching of the Geyser patent and the Shimizu patent makes obvious claim 19 as it currently stands.

The Shimizu patent is directed to a label sticking apparatus and label tape, whereby, as illustrated in Figure 4, labels 14 of uniform width are removed from a holder by a holder sticking unit 41 on a suction drum 40, which itself is rotated such that the holder sticking unit 41 and label 14 are aligned with the top of a workpiece holder 25 holding a cassette shell 11 (Figure 1) of a photographic film cassette 10. The Examiner then indicates

that it would be obvious to combine the teaching of the Geyser patent with the teaching of the Shimizu patent to arrive at Applicant's claim 19. Applicant respectfully disagrees.

First of all, there is nothing in either of the patents suggesting that the teaching of one may be applied to the teaching of the other. The Geyser patent is directed to applying labels to the curved side of a cylinder such as paper towel rolls T, as specified in column 2, line 16-21 of the Geyser patent. On the other hand, the Shimizu patent is directed to applying labels 14 to the flat top of a plastic cassette shell 11 of a photographic film cassette 10, illustrated in Figure 1 of the Shimizu patent. Therefore, the Applicant believes it is improper to combine these teachings but, furthermore, even if it were proper to combine the teaching of these two patents, the resulting device would be inoperative because each of these two devices has a very distinct purpose and utilizes significantly different structural elements to accomplish their respective purposes.

For these reasons, the Applicant does not believe that currently pending claim 19 is made obvious by the teaching of the Geyser patent, in view of the teaching of the Shimizu patent or, in the alternative, by the teaching of the Shimizu patent, in view of the teaching of the Geyser patent. Therefore, the Applicant believes that currently pending claim 19 is patentably distinct and in condition for allowance.

Furthermore, by way of their dependence upon what is believed to be patentably distinct independent claim 19, claims 21, 23-25 and 37 are themselves believed to be patentably distinct and in condition for allowance.

In Section No. 10 of the Office Action, the Examiner rejects claims 20 and 26 under 35 U.S.C. § 103(a) as being obvious from the teaching of the Geyser patent, in view of the teaching of the Shimizu patent or, alternatively, the teaching of the Shimizu patent, in

view of the teaching of the Geyser patent and, furthermore, in view of the teaching of United States Patent No. 5,102,485 to Keeler. By way of their dependence upon what is believed to be patentably distinct independent claim 19, claims 20 and 26 are themselves believed to be patentably distinct and in condition for allowance.

In Section No. 11, the Examiner rejects claim 27 under 35 U.S.C. § 103(a) as being obvious from the teaching of the Geyser patent, in view of the teaching of the Shimizu patent or, alternatively, from the teaching of the Shimizu patent, in view of the teaching of the Geyser patent and, furthermore, in view of the teaching of Great Britain Patent No. 2,188,608 to Voltmer et al. Once again, by way of its dependence upon what is believed to be patentably distinct independent claim 19, claim 27 is itself believed to be patentably distinct and in condition for allowance.

In Section No. 12 of the Office Action, the Examiner rejects claims 28, 29 and 31-33 under 35 U.S.C. §103(a) as being obvious from the teaching of the Shimizu patent, in view of the teaching of the Geyser patent and, furthermore, from the teaching of United States Patent No. 4,605,459 to Voltmer (the Voltmer '459 patent) and of the Keeler patent. First of all, the Applicant respectfully disagrees that claims 28-29 are obvious when the Examiner must apply the teaching of four separate patents to suggest the elements found in claims 28 and 29. To the contrary, the need to combine four separate references to teach the features of claims 28, 29 and 31-33 itself is an argument for nonobviousness. Nevertheless, each of these claims is believed to be patentably distinct and in condition for allowance by way of their dependence upon what is believed to be patentably distinct independent claim 19.

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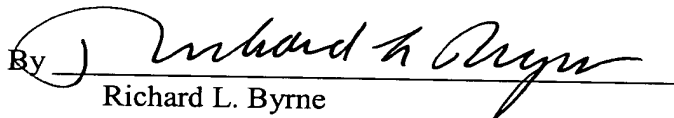
In Section No. 14 of the Office Action, the Examiner once again refutes the Applicant's allegation that Figure 1 illustrates the different thicknesses of each object 6 and provides the necessary support for this feature. For reasons previously discussed, the Applicant disagrees with this allegation.

For these reasons, the Applicant respectfully requests reconsideration and allowance of pending claims 19-21, 23-29, 31-33 and 37.

Finally, approval of the formal drawings as originally filed is hereby requested. None of the previous correspondence from the Patent Office has provided such approval.

Respectfully submitted,

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